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December 5, 2002

TN REGULATORY AUTHORITY  
DOCKET ROOM

VIA HAND DELIVERY

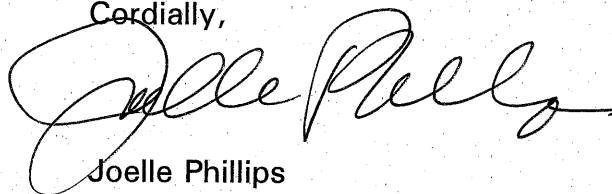
Hon. Sara Kyle, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Proposed Rules for the Provisioning of Tariff Term Plans and Special Contracts*  
Docket No. 00-00702

Dear Chairman Kyle:

Enclosed are the original and fourteen copies of the Industry Comments on Proposed Rules, which I have been authorized to file on behalf of the Industry Members indicated in the preamble. Copies have been served on all parties of record

Cordially,



Joelle Phillips

JP:ch

cc: Hon. Deborah Taylor Tate, Hearing Officer

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

In Re: *Proposed Rules for the Provisioning of Tariff Term Plans and Special Contracts*

Docket No. 00-00702

**COMMENTS IN RESPONSE TO NOVEMBER 27, 2002**  
**NOTICE OF FILING**

BellSouth Telecommunications, Inc. ("BellSouth"), United Telephone-Southeast, Inc. and Sprint Communications Company, LP ("Sprint"); Citizens Telecommunications Company of Tennessee, LLC ("Citizens"), Southeastern Communications Carriers Associations ("SECCA"), Time Warner Telecom of the Mid-South, LP ("Time Warner"), and Association of Communications Enterprises ("ASCENT") (jointly the "Industry Members") file these joint comments in response to the November 27, 2002 Notice of Filing. Together these Industry Members respond to the questions posed by the Hearing Officer as follows:

1. **Should new CSA rules be proposed for the continued review and approval of CSAs? Is the current rule sufficient for this purpose? Please explain your response.**

Since August, the Industry Members have engaged in numerous meetings for the purpose of negotiation regarding Contract Service Arrangements ("CSAs") and issues related to this docket. As a result of those discussion, the Industry Members have concluded that no new CSA rules are needed. Rather, the Industry Members urge the TRA to retain the current rules applicable to CSAs.

The current level of scrutiny applied to proposed CSAs by ILECs is the most stringent in any state of which these Industry Members are aware. Pursuant to the current rule, these CSAs are publicly filed as tariffs and receive the same case-by-case scrutiny from the TRA as any other tariff filing, focusing on such issues as termination liability, above-cost pricing, and the existence of competitive alternatives justifying the departure from tariffed rates. Like any tariff filing, the TRA reviews to ensure that the CSAs are non-discriminatory and made available to similarly-situated customers. Pursuant to the current rule, the TRA has the discretion to seek additional information in the event that its initial review raises questions regarding any aspects of the CSA proposed for approval by the TRA. Should the TRA require additional time for its review, it may suspend the CSA tariff filing for an appropriate period of time. Any other party may also file a petition to intervene on any CSA filing, as with any other tariff filing. For its part, BellSouth's CSAs include an "addendum", which, among other things, provides the customer's own declaration regarding the existence of a competitive alternative.

In addition to the rule governing ILEC CSAs, a separate rule provides scrutiny of CLEC CSAs. See TRA Rule 1220-4-8-.07(3). Pursuant to these rules, the TRA is made aware of CSAs into which CLECs intend to enter in the form of a summary filing. This rule explicitly requires CSAs to be non-discriminatory and made available to similarly-situated customers. In the event questions are raised regarding these filings, the TRA is able to seek additional information via data request.

Through its existing CSA rules, the TRA is able to consider and, when appropriate, permit carriers to enter into competition-driven pricing for Tennessee customers. This process is one way in which the TRA is able to deliver tangible benefits of competition (namely discounts) in Tennessee to Tennessee customers. While those rules do not limit the TRA's review to specific criteria, the rules provide the basis for a procedural process by which the TRA is reviewing these competition-driven contracts. The flexibility inherent in these existing rules allows the TRA to develop areas of review as unique circumstances, or technological advances require.

Recent activity in this docket has addressed certain issues raised in the May 31, 2002 letter from the Attorney General's office relating to certain proposed new rules for CSAs. It is important to note that the May 31 letter addressed issues in the context of those newly promulgated rules for CSAs, not the existing rules. Unlike the existing rules, those newly-promulgated rules specifically provided for presumptive validity and a shortened timetable for review. The existing rules contain no such provisions. Consequently, the discussion contained in the May 31 letter does not constitute a basis to replace or modify the *existing* CSA rules.

2. **If a proposed CSA rule is necessary, please provide comments, including the general parameters for each proposed rule and justification for each.**

As noted above, the Industry Members do not believe that a proposed CSA rule, which would amend the existing rules, is currently necessary.

The parties to this docket have engaged in a substantial amount of negotiation in an effort to develop and jointly propose new or alternative rules for consideration by the TRA. This process resulted in no proposal satisfactory to all of the parties. For example, proposed rules requiring additional customer information were unacceptable to many because of the risk to customers of releasing sensitive information about their businesses. Rules requiring additional filings posed serious concerns for telecom companies already struggling in the current telecom market to find resources to meet existing requirements. In addition, rules that would limit CSAs to only certain geographic areas within Tennessee were unacceptable to the Industry because such rules would constitute a drastic "roll back" of the benefits of competition, which have already spread throughout Tennessee. In short, the Industry Members believe that no proposal for amended rules was developed during negotiation that would be superior to the existing rules currently in place for CSAs review.

**3. If the current rule is sufficient, discuss the manner in which future CSAs should be addressed.**

The Industry Members agree that under the current rules, the TRA currently engages in review of ILEC CSAs on a case-by-case basis and on review of the summary information provided by CLECs with respect to their CSAs. The Industry Members propose that this process of review continue. In addition, the Industry Members note that this process, unlike other tariff review process, has in the past involved the placing of each CSA on the Conference Agenda for consideration by

the TRA. The Industry Members agree that this process is not mandated by the rule and is not necessary. Rather, as with any other tariff, ILEC CSAs (which are actually tariff filings) ultimately become effective 30 days after filing unless suspended by the Authority. During that 30-day period, any party could intervene to seek a suspension in order to raise issues regarding that CSA. In the event the TRA's internal review results in no finding of irregularity regarding a proposed CSA and adequate information has been provided with such CSA, then there is no reason to place the CSA on the Agenda for further action.

#### CONCLUSION

The Industry Members have engaged in a lengthy negotiation process in order to address issues relating to CSAs. In the course of those conversations, the parties were not able to reach complete agreement as to various issues related to CSAs. However, the Industry Members do agree that the current CSA rules provide sufficient scrutiny to satisfy Tennessee law and the current practice of the TRA comports with these rules.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2002, a copy of the foregoing document was served on the parties of record, via the method indicated:

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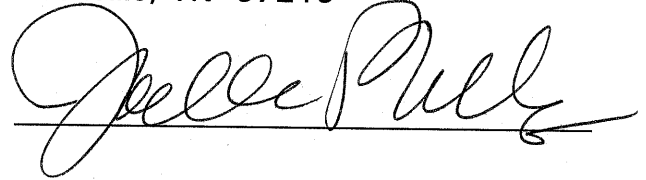
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A handwritten signature in dark ink, appearing to read "Timothy Phillips", is written over a horizontal line.